

NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule takes effect upon filing with the Secretary of State and remains in effect for 180 days. An emergency rule may be renewed for one 180-day period if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

NOTICE OF EMERGENCY RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

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|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R12-4-527 | New Section |
- 2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 5-311, 5-324, 5-397, 5-397.01, 5-397.02, and 5-397.03

Implementing statutes: A.R.S. §§ 5-324(E)(8), 5-397, 5-397.01, and 5-397.02
- 3. The effective date of the rule:**

May 26, 2003
- 4. Is this rulemaking a renewal of a previous emergency rulemaking?**

No
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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| Name: | Mark E. Naugle, Manager, Rules and Risk Management |
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- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The proposed emergency rule will implement statutory changes to the Department laws and rules made by Senate Bill 1250, Chapter 314, watercraft; towing companies. The emergency rule R12-4-527 will establish a process to transfer ownership of a towed watercraft.

The emergency rule defines the term "towed watercraft," and requires towing companies to present such watercraft to the Department for inspection should there be no discernible hull identification number. The rule also requires towing companies to provide evidence of compliance with notification requirements to the craft's registered owner as prescribed in A.R.S. § 5-397.

The emergency rule R12-4-527 will authorize the documents required by the new A.R.S. § 5-397(B)(1) to report towed unreleased watercraft to the Department to initiate a transfer of ownership; the notice of intent to transfer ownership required by A.R.S. § 5-397.01(B) to be mailed to the owner, lienholder, or any other person with an interest in the watercraft; an application for transfer of ownership in A.R.S. § 5-397.02(B); and all other forms required of towing companies to be provided by the Department.

The emergency rule also establishes a \$25.00 fee for a transfer of registration to be paid by the towing company making the request.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The summary of the economic, small business, and consumer impact:

The emergency rulemaking will affect the Department, customers that register watercraft with the Department, and towing companies located in the state of Arizona.

The proposal to establish a process for transfer of ownership of a towed watercraft will benefit towing companies by revising the current procedure to make it more like the transfer of ownership of motor vehicles. In addition, it allows towing companies to remove watercraft from their property that have not been reclaimed by the registered owner by registering and then selling or disposing of the watercraft. The emergency rule also establishes a \$25 fee for an application for of transfer of ownership of watercraft. The Department will use this fee to meet some of the cost of notifying the registered owner and later publishing a notice of towed watercraft in a publication of general circulation, as required by A.R.S. § 5-397.01. The Department anticipates this will not have any effect on revenues or payroll expenditures of employers, because towing companies will be able to recover any towing storage losses by selling the towed watercraft.

The emergency rulemaking will benefit the public by requiring towing companies to give proof of notice to the Department as prescribed in A.R.S. § 5-397. The emergency rulemaking will not incur any additional costs to the public.

The emergency rulemaking will result in no added cost to the public or to other agencies directly affected by the implementation and enforcement of the proposed rulemaking. The emergency rulemaking will have no impact on private or public employment. The Department has determined that the benefits of the emergency rulemaking outweigh any costs.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

10. Incorporations by reference and their location in the rules:

None

11. An explanation of the situation justifying the rule's adoption as an emergency rule:

Emergency certification of this rule is necessary to allow the agency to comply with the provisions and requirements of the agency's new governing laws. The emergency rule will authorize the documents required by the new A.R.S. § 5-397(B)(1) to report towed unreleased watercraft to the Department to initiate a transfer of ownership; the notice of intent to transfer ownership required by A.R.S. § 5-397.01(B) to be mailed to the owner, lienholder, or any other person with an interest in the watercraft; an application for transfer of ownership in A.R.S. § 5-397.02(B); and all other forms required of towing companies. Without these authorized forms, there will be no documentation to initiate or record the process.

The collective organization of towing companies is faced with an overabundance of accumulated abandoned and unidentified watercraft occupying space on their property. Senate Bill 1250 streamlines the process to reduce the amount of time required to contact the owner or lienholder of the watercraft and to obtain a transfer of ownership and registration, allowing towing companies to be able to sell abandoned watercraft to recoup any losses they have incurred by storage of the abandon watercraft. Representatives from the state's towing industry have cooperated at length with the Game and Fish Department to draft these changes and await the use of the process to enable them to transfer ownership of towed watercraft that are currently stored on their premises.

Due to the length and thoroughness of the regular rulemaking process, the Department cannot draft and implement recommended rule changes through the regular rulemaking process until several months after the bill's effective date. Without the adoption of the emergency rule, the Department would not be able to implement the watercraft transfer process in a timely manner, causing towing companies to continue to be frustrated with excessive storage of abandoned watercraft, and continue to be bound by an overly cumbersome transfer process.

12. The date of the Attorney General's approval of the emergency rule:

March 26, 2003

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 5. BOATING AND WATER SPORTS

Section

R12-4-527. ~~Reserved~~ Transfer of Ownership of a Towed Watercraft

ARTICLE 5. BOATING AND WATER SPORTS

R12-4-527. ~~Reserved~~ Transfer of Ownership of a Towed Watercraft

- A.** For the purpose of this Section, "towed watercraft" means a watercraft that has been impounded by and is in the possession of a towing company located in this state.
- B.** At the time a towing company makes a request for watercraft registration information for a towed watercraft under A.R.S. § 5-324, the towing company shall present the towed watercraft to the closest Department regional office for identification if there is no discernible hull identification number nor a state-issued registration number.
- C.** A towing company that wants to transfer the ownership of a towed watercraft shall submit the following to the Director of the Department:
1. Evidence of compliance with notification requirements in A.R.S. § 5-397.
 2. A report on a form available from the Department that includes the following:
 - a. Name of towing company;
 - b. Towing company's business address;
 - c. Towing company's business telephone number;
 - d. Towing company's Arizona Department of Public Safety tow truck permit number;
 - e. Towed watercraft's hull identification number, if known;
 - f. Towed watercraft's state issued registration number, registration decal, and year of expiration, if known;
 - g. Towed watercraft's trailer license number, if available;
 - h. State and year of trailer registration, if available;
 - i. Towed watercraft's color and manufacturer, if known;
 - j. Towed watercraft's condition, whether intact, stripped, damaged, or burned, along with a description of any other damage;
 - k. Date the watercraft was towed;
 - l. Location from which the towed watercraft was removed;
 - m. Entity that ordered the removal of the towed watercraft, and if a law enforcement agency, the officer badge number, jurisdiction, and copy of report or towing invoice;
 - n. Location where the towed watercraft is stored; and
 - o. Name and signature of towing company's authorized representative.
 3. \$25 application fee authorized in A.R.S. § 5-397.03(2).
- D.** If the Department is unsuccessful in its attempt to identify or contact the registered owner or lienholder of the towed watercraft under A.R.S. § 5-397.01, and if the Department has determined that the towed watercraft is not stolen, under A.R.S. § 5-397.02(A), the towing company shall follow the application procedures in A.R.S. § 5-397.02(B) and R12-4-502 to register the towed watercraft.